

**Long
Distance
For Less**

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**Market
Dynamics, Inc**

January 20, 1998

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, NW — Room 222
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Policy and Rules Concerning the Interstate, Interchange Marketplace,
Implementation of Section 254 (g) of the Communications Act of 1934,
as amended: CC Docket No. 96-61

Dear Ms. Salas:

On December 4, 1997, the Telecommunications Management Information Systems Coalition and The Utility Reform Network filed a Petition for Further Reconsideration of the Federal Communications Commission's decision to eliminate the requirement for long distance carriers to provide pricing and service information regarding widely available services to the public. This letter is to express both my personal strong support and that of my company, Market Dynamics, Inc, for this Petition.

Market Dynamics, Inc, publishes **Dr. Bob's Long Distance For Less Updates**, a 300+ page quarterly newsletter which compiles rate and service information from MCI, Sprint, and AT&T. We also publish **Dr. Bob's Telecom CheckSheet**, a weekly newsletter to keep both end users and telecom companies informed as to what's going on in long distance and other competitive telecom areas — notices of rate changes, new services, regulatory/legislative developments, mergers/acquisitions, and more. In addition to being used by many at the FCC, our publications are used by thousands of businesses, long distance companies, and consultants to keep up with telecom changes and to evaluate long distance services.

In October, 1996, the FCC adopted rules that prohibit long distance carriers from filing tariffs for interstate long distance service with the FCC. At the same time, the Commission noted that consumers continue to need information about the rates, terms, and conditions of long distance service. As a result, the FCC required carriers to make such information available to the public. In August, 1997, the Commission unexpectedly changed its position and eliminated the public disclosure requirement for mass market services, even though no party requested such a change.

While I have great respect for and many friends at the Commission, I feel strongly after 16 years experience in the real world of evaluating long distance services for actual customers that the FCC's elimination of any public disclosure requirement **will lead to major confusion and wasted money** by many long distance customers, and to **reduced competition** in the long distance industry.

Despite what the Commission may think, both residential and small business long distance customers rely (directly or thru consumer groups and firms like ours) on publicly available pricing data to make

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decisions when buying telecom services. The FCC admitted in its October 1996 order that **public disclosure promotes the public interest** by making it easier for customers to compare services.

To compare the thousands of plans now available, customers need detailed, accurate plan information. The only way to ensure customers have data on rates/discounts/promos for **all relevant plans, not just the one plan each carrier happens to be promoting at that time**, is through FCC-mandated public disclosure. The FCC should not deny customers access to this important information.

Around 1990 I gave a speech on the state of tariffs and tariffing to a room full of FCC staff and managers at 1919 M Street in Washington. Truthfully, I was sweating bullets, since I figured I was trying to tell the most informed people in the world on US long distance pricing/tariffing what was going on. About 15 minutes into my talk came the first question, from a high-ranking Common Carrier Bureau manager. Certainly this expert would ask me something hard and technical.

The question was, **"What service should we use at home?"** If the FCC staff can't figure out what to do, even with tariffs, how can they expect the public to figure out what to do in a now more-complicated world without tariffs? The most telling point that came out of this meeting was many **FCC people see tariffs as something strictly to be used in regulating** the long distance industry.

The FCC people in that room had no clue that **tariffs today are far more than a regulatory tool**; they now are the **major source of service data** for anyone who wants to buy long distance or compete in the long distance market. Maybe from the regulatory viewpoint tariffs are unnecessary. But, in the real world, if tariffs and required public disclosure were to disappear, both consumers and competitors would suffer. Isn't **"the public interest"** the most important thing?

Customers traditionally have served as the FCC's watchdogs over certain practices of the long distance industry. For example, the Communications Act prohibits carriers from charging consumers in rural and other high-cost areas higher rates than those charged to customers in urban and other lower-cost areas. **Without publicly available pricing information**, however, consumers will be **hard pressed to even detect** illegal price discrimination. Much less, to adequately support complaints to the FCC.

The Commission says **billing and advertising and promotional material** provided by the carriers will **provide all the data** customers need. As one who has tracked and compared competitive long distance services in the real world for 16 years, I can categorically tell you **this is absolutely wrong**. It is just the opposite from what happens now in a tariffed environment, and will surely be worse without tariffs or some other form of required public disclosure.

First, billing information, by definition, is only available to a carrier's existing customers. It is **not available to non-customers** who are trying to decide between carriers and services. Second, the advertising and promotional materials provided by carriers are **not usually detailed enough** to allow a customer to make apples-to-apples comparisons. Clearly these materials will not be specific enough to allow consumers to detect — let alone support — a claim of carrier misconduct at the FCC. In short, the information available publicly without a specific Commission disclosure requirement will fall far short of meeting customers' needs.

In recent years my employees have **played dumb customer** and called major carriers many times to **ask about tariffed** services, promos, and discounts. Often (some cases documented in our publications)

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carrier reps have **denied** tariffed (and legally available) services, promos, or discounts **even exist**. We have often had to **push hard** and make several calls, **even fax the actual tariff page/s** covering the service/promo/discount, before we were able **to get them to admit** it existed and/or to offer it to us.

Case I. In one specific instance after we faxed tariff pages to prove a service existed, the carrier supervisor (we were escalated!) asked how we got the tariffs. We answered, "I know someone at the FCC." The supervisor said, "**That's insider trading; you can't have the service.**" Mind you, we are not dumb customers. The only reason we knew to ask about the service and were able to get them to give it to us was we already knew about it, knew the right questions to ask, and threatened to take the matter to the FCC. Pity the poor typical customer in a world without tariffs/public disclosure.

Case II. At a recent holiday party the vice president of marketing of one of the top five long distance carriers approached me and said. "We love your material. But, we would pay you 10 times as much if **you could give us something that tells us what [carrier X] is actually charging**, so we can set our prices to compete against them."

Case III. Just 10 days ago I got a call from a high marketing manager at another top five IXC. She asked how [carrier X] was legally able to offer a particular rate they were advertising. Even using our **Updates** and the tariffs, they still **could not figure out** what combination of discounts and promos [carrier X] was using. As dumb customer we made several calls to [carrier X's] sales center. **Most reps knew almost nothing**, except to quote a rate from a matrix based on what the customer said.

Even **given we have the tariffs** and our own analysis and summaries as a starting point, and consider ourselves to be among the most knowledgeable people on earth regarding long distance pricing, it is often almost impossible to figure out what service is being offered; how the pricing works; is it a promo, etc. The same thing has happens with many major carriers.

Often there is absolutely no way a typical customer could ever figure out what is going on. They have to take the carrier at its word and **buy the single specific service the carrier wants to sell them**, even if another service is better for them. Make no mistake. Carriers are in business to sell to customers, not to educate them or save them money. **They will tell them what is good for the carrier, not what is good for the consumer.**

In most markets that is fine (short of lying or fraud); it's called a free market. We all understand "customer beware" in buying refrigerators, stereos, etc., when a single purchase and one-time price are involved. But in a market where **customers do not understand** how the pricing, discounts, and promos work; and where the customer makes a separate purchase every time they make a call, often for months or years into the future, buyer beware based on information given by the carrier during the sales pitch (often over the phone), or in an incomprehensible (to many) bill insert, **just isn't enough.**

The big carriers (like the big customers) will be able to get all the competitive info they need. They will have vast networks of sales and other people collecting every scrap of competitive info they can from potential customers and feeding these into corporate spy centers. They will subscribe to every one of each other's services just to keep up. Consumers and small business customers will lose because they won't know what all their options are. **Smaller competitors will lose** because they won't know what they're competing against, or what they have to do to compete.

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In my opinion, the FCC has the **tariff/public disclosure issue exactly backwards**. The Commission says tariffs/public disclosure may aid in future tacit price collusion. There is no apparent evidence of tacit price collusion to this point. If it were to happen, we do have the Justice Department.

In fact, just the opposite seems to be true. Tariffs and/or **public disclosure** provide information (albeit often incomplete, hard to figure out) that **makes for better and quicker competition**. Of course the same information can be **used by consumers** and small businesses (either directly or through services like ours) **to figure out their options** and what they should be buying.

So, the real question is not about (potential, maybe someday) tacit collusion, but **"How would lack of tariffs or public disclosure affect competition?"** What we know today is when one carrier comes out with a price change, other carriers try to be competitive and respond — if they know about it. Without tariffs or some form of public disclosure, many carriers, particularly the smaller ones, won't be able to compete as well because they will not even know what they are competing against.

The FCC and other proponents of the elimination of tariffs and public disclosure argue doing so will increase competition. **Competition**, perhaps more than anything else, **requires knowledge** of what services and products are offered. Eliminating public disclosure and tariffs, the single source for pricing and service information, will reduce the knowledge necessary for competition to exist.

Detariffing proponents also **claim carrier advertising and marketing will adequately inform** the public of long distance price and service information. However, if small carriers and business and residential customers **now have difficulty** figuring out their telephone bills and which long distance services to purchase **even with tariffs**, the **elimination of public disclosure** for long distance pricing and service information **will make things worse**. It would be hard to argue otherwise.

Marketing and **advertising materials** and information **will never be** a complete source of information. They are selective info showing exactly the data the carrier's skilled advertising and marketing people think **will best sell** one specific service to the chosen target audience. Advertisements purposely do not draw the whole picture for consumers. For example, when carriers promote price reductions on one type of call, they often raise prices in other areas.

Market Dynamics, Inc, fully supports the Petition and urges the Commission to **promptly reinstate the public information disclosure requirement** for widely available services (all but contract tariffs). By doing so the Commission will assist customers in getting information need for both customer choice and the customer-complaint process, and continue to encourage strong competition.

Very truly yours,



Dr. Robert Self
President, Market Dynamics, Inc